

TENTATIVE RULINGS for CIVIL LAW and MOTION

July 8, 2009

Pursuant to Yolo County Local Rules, the following tentative rulings will become the order of the court unless, by 4:00 p.m. on the court day before the hearing, a party requests a hearing and notifies other counsel of the hearing. To request a hearing, you must contact the clerk of the department where the hearing is to be held. Copies of the tentative rulings will be posted at the entrance to the courtroom and on the Yolo Courts Website, at www.yolo.courts.ca.gov. If you are scheduled to appear and there is no tentative ruling in your case, you should appear as scheduled.

Telephone number for the clerk in Department Fifteen: (530) 406-6942

TENTATIVE RULING

Case: **Medina v. Sutter Health Sacramento Sierra Region**
Case No. CV PO 08-274

Hearing Date: **July 8, 2009** **Department Fifteen** **9:00 a.m.**

Defendant Sutter Health Sacramento Sierra Region dba Sutter Davis Hospital's Motion For Summary Judgment is **DENIED**. (Code Civ. Proc., § 437c; Separate Statement of Undisputed Material Facts 16-19, Dec. of Dr. Faccog ¶ 25.) Plaintiffs have shown that there is a triable issue of fact concerning the alleged negligence of defendant.

Defendant's Request for Judicial Notice is **GRANTED**. (Evid. Code, § 452.)

Defendant's objection number one to the Declaration of Daphne Echols is **OVERRULED**. (Evid. Code, §§ 1271 & 1414.) Defendant's objections numbers two through four are **SUSTAINED**. (Evid. Code, §§ 801 et seq.; Bus. & Prof. Code, §§ 2725 et seq. & 2052; *Jennings v. Palomar Pomerado Health Systems, Inc.* (2003) 114 Cal.App.4th 1108, 1117-1119.) Ms. Echols declared that the fundal massages were "vigorous." She failed to provide any evidentiary basis for her assertion that the massages were "vigorous." Additionally, the medical records provided by the parties do not include any references to "constipation." Finally, she is a registered nurse and as such is not licensed to diagnose the injury or the cause of the injury. (Bus. & Prof. Code, §§ 2725 et seq. & 2052.) The Court finds that the opinion of defendant's expert was outside the scope of her expertise and was unsupported by adequate reasons or explanations. Moreover, her declaration that the fundal massages caused the bleeding contradicts the opinions of plaintiffs' and defendant's expert doctors and therefore, it is unreliable. (Evid. Code, §§ 801 et seq.)

If no hearing is requested, this tentative ruling is effective immediately. Defendant is directed to prepare a formal order consistent with this ruling and in accordance with Code of Civil Procedure section 437c, subdivision (g) and California Rules of Court, rule 3.1312.

TENTATIVE RULING

Case: **Barr v. City of Woodland**
 Case No. CV CV 09-59

Hearing Date: **July 8, 2009** **Department Fifteen** **9:00 a.m.**

Defendant City of Woodland's motion to set aside the default is **GRANTED**. (Code Civ. Proc., 437.) The demurrer is deemed filed as of the date of this hearing. The hearing date for the demurrer is set for September 21, 2009, in Department 15 at 9:00 a.m.

If no hearing is requested, this tentative ruling is effective immediately. Defendant shall serve a copy of the tentative ruling on plaintiffs by July 9, 2009. No formal order pursuant to California Rules of Court, rule 3.1312 or further notice, except as stated herein, is required.